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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,036

12/22/2004

Scott Allan Kendall

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02/04/2009

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EXAMINER

BAIG, SAHAR A

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

02/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/519,036	KENDALL ET AL.	
	Examiner	Art Unit	
	SAHAR A. BAIG	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/21/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8-13, and 15-20, rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al. (US Patent Publication No. 2003/0093789).

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Regarding Claim 1, 8, and 15, Zimmerman discloses in **Figure 3** a television signal receiver **315** having an emergency alert function, comprising: a tuner **310** operative to tune a frequency including emergency alert signals indicating a type of emergency event **[0016 lines 13-15]**; and a processor operative to enable an alert output responsive to the emergency alert signals, wherein the alert output is provided in accordance with a user selectable alert mode corresponding to the type of emergency event **[0020]**. Zimmerman also discloses a method of setting user selectable alert modes corresponding to each of a plurality of types of emergency event; wherein said interface allows said user to individually select for each of a plurality of types of emergency events: whether a message will be presented **[0078]**, whether a presentation subsystem will be placed into an active mode **[0083]**, and at least one type of alert output that is to be presented **[0077]**. However Zimmerman fails to explicitly teach the use of an interface. The combination of these prior art elements according to known methods as disclosed in Zimmerman would have yielded predictable results, particularly the use of a "subscriber profile" **[0020]**. Therefore it would have been obvious to one of ordinary skill in the art to generate an interface that facilitates user interaction in order to allow the user to "rank" or prioritize their profile.

Regarding Claim 2, Zimmerman discloses a method of enabling a user to turn the alert output on and off **[0068]** *The ON/OFF status of television 300 is*

controlled by an operator using either a remote control or a manual switch to generate an ON/OFF signal].

Regarding Claim 3, 6, 10, 13, 17, and 20 Zimmerman discloses that the processor is further operative to enable a plurality of alert outputs responsive to the emergency alert signals, and the plurality of alert outputs are provided in accordance with a plurality of user selectable alert modes corresponding to the type of emergency event **[0013** *The broadcast special event content may suitably be indicative of a public alarm, an emergency warning, an event of interest (e.g., local, regional, national or international political, economic, social, government or like event), as well as any event that is of interest to a subscriber, subscriber group or subscriber type, or the like, the latter may be defined, at least in part, by a subscriber profile]*.

Regarding Claims 4, 5, 11, 12, 18, and 19, Zimmerman discloses the alert outputs **Figure 1** to be in the form of visual **182** and aural **181** outputs.

Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 14, and 21, rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al. (US Patent Publication No. 2003/0093789) in view of Letzt et al. (US Patent No. 5,612,869).

Regarding Claim 7, 14, and 21, Zimmerman discloses the entire claimed feature of the present invention except the means to not completely turn off at least one of the plurality of the outputs. In an analogous art, Letzt describes an alert system where a user cannot turn off the volume entirely and miss an alert **[Col. 19 line 65 – Col. 20 line 6]**. Therefore it would have been obvious to one of ordinary skill in the art to combine the teachings of Zimmerman and Letzt to manufacture a system wherein a user is able to hear emergency broadcasts and survive a disaster.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. It includes Lemelson et al. US Patent No. 6,084,510.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on 4/5/9.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
Unit 2424

SB